UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
LU, KUEN S

ART UNIT	PAPER NUMBER
2177	5

DATE MAILED: 04/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>21 December 2001</u>.
2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-33</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-33</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

At Page 9, line 23, the phrase "time T) to time Tn" should be "time T0 to Tn", where ')'

seems to be a typo. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form

the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-33 are rejected under 35 U.S.C. 102(b) as anticipated by Waclawsky et al.

(U.S. Patent 5,974,457, hereafter "Waclawsky").

As per Claims 1, 6 and 30, Waclawsky teaches the following:

"**collecting** a time series **data** of a time varying parameter of said process" at col. 4,

lines 14-17 and col. 15, lines 60-64, and Table 1 where a time varying traffic data of a

token ring network is collected by the ICA (Information Collection Architecture) Monitor;

"**processing** said time series **data** *according to a data structure* that defines said time

varying parameter *and an activity* having an interval that frames said time varying

parameter" at col. 4, lines 55-59 and Table 1 where network traffic data in terms of

event vector is applied to the expert analysis module and the module has the data

represented by a format of the record of Table 1, with time varying parameters such as

#frames/min and #tokens/min; and

"**storing** said processed time series **data** in a memory" at Fig. 1B-1, elements 140 and

195, and col. 4, lines 33-36 where network traffic data is stored in array buffer and

transferred to the accumulated storage.

As per Claims 2 and 7, Waclawsky teaches "data structure includes an activity

structure that comprises an identity and a plurality of activity attributes" at Table 1 where

time in hour:min is the identity of each network traffic activity and #frames/min and

#tokens are two of the activity attributes.

As per Claims 3 and 8, Waclawsky teaches "activity attributes are selected from the

group consisting of: start time, end time, time varying parameter and item used in said

process" at Table 1 where activity attributes with time varying parameters such as

#frames/min and #tokens/min are collected with time starting at the beginning of the

minutes and ending at the starting of the next, and the item used in the network activity

monitoring process is the intelligent real time monitoring system as described at Figs.

1A-1B and col. 4, lines 9-40.

As per Claims 4 and 9, Waclawsky teaches "activity attributes have an attribute

value" at Table 1 where attributes parameters #frames/min and #tokens/min each has

one numerical value every minute.

As per Claims 5 and 10, Waclawsky teaches "item is an equipment, and wherein said

time series data is linked to a device of said equipment" at Figs. 1A-1B and col. 4, lines

9-40 and Figs. 1A-1B where item is the intelligent real time monitoring system and the

device is the ICA (Information Collection Architecture) Monitor.

As per Claims 11, 20 and 29, Waclawsky teaches the following:

"**identifying an activity** of said process" at col. 16, lines 18-20 where the type of

network traffic is identified and at col. 2, lines 41-44 where the ICA performs the

functions of real-time identification of events occur on the network;

"**identifying a** time varying **parameter** that is framed by an interval of said activity" at

Figs. 10D-10E and col. 15, lines 22-28 where benchmarking in progress for

charactering the parameters of #frames/min and #tokens/min; and

"**processing** said **activity and** said time varying **parameter** to access said memory to

retrieve said time series data" at Fig. 1B-1, elements 140 and 160, and col. 7, lines 43-

60 where traffic activity parameters data, including frames and tokens are retrieved from

the buffer and processed by expert system analysis unit.

As per Claims 12 and 21, Waclawsky teaches "data structure includes an activity

structure that comprises an identity and a plurality of activity attributes" at Table 1 where

time in hour:min is the identity of each network traffic activity and #frames/min and

#tokens are two of the activity attributes.

As per Claims 13 and 22, Waclawsky teaches "activity attributes are selected from

the group consisting of: start time, end time, time varying parameter and item used in

said process" at Table 1 where activity attributes with time varying parameters such as

#frames/min and #tokens/min are collected with time starting at the beginning of the

minutes and ending at the starting of the next, and the item used in the network activity

monitoring process is the intelligent real time monitoring system as described at Figs.

1A-1B and col. 4, lines 9-40.

As per Claim 14 and 23, Waclawsky teaches "activity attributes have an attribute value" at Table 1 where attributes parameters #frames/min and #tokens/min each has one numerical value every minute.

As per Claims 15 and 24, Waclawsky teaches "item is an equipment, and wherein said time series data is linked to a device of said equipment" at Figs. 1A-1B and col. 4, lines 9-40 and Figs. 1A-1B where item is the intelligent real time monitoring system and the device is the ICA (Information Collection Architecture) Monitor.

As per Claims 16 and 25, Waclawsky teaches "identifies said time varying parameter with a reference selected from the group consisting of: time based reference with respect to said interval, direct reference to said activity and indirect reference to said activity" at col. 12, lines 44-67 where benchmark data sets are utilized to input as a reference to the criteria module to compare the historical data in the benchmark data set to the current monitoring information given by the event vectors for frame and token flow rate.

As per Claims 17 and 26, Waclawsky teaches "time based reference is with respect to a parameter that is independent of said process" at col. 12, lines 44-67 where benchmark data sets are utilized to input as a reference to the criteria module for comparing the historical data in the benchmark data with current information and the reference is not currently collected.

As per Claims 18 and 27, Waclawsky teaches "direct reference directly refers to said activity" at at col. 12, lines 44-67 where benchmark data sets are utilized to input as a

reference to the criteria module for comparing the historical data in the benchmark data with the current information and the reference data directly refers to network traffic.

As per Claims 19 and 28, Waclawsky teaches "indirect reference includes a reference to an equipment used by said process during said activity" at col. 12, lines 44-67 where benchmark data sets refers to the same intelligent real-time monitoring of traffic data.

As per Claims 31, 32 and 33, Waclaswsky teaches the following:

"**processing** said time series **data** with an activity that has an interval that frames said time series data" at col. 7, lines 43-60 where network traffic acitivity data is processed; and "**processing** said **activity and** time varying **parameter** to access a memory and retrieve said time series data" at col. 7, lines 43-60 where the data is retrieved from data buffer and processed in the Expert System Analysis Unit.

Conclusions

5.   The prior art made of record

    A. U.S. Patent   5,974,457

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

    B. U.S. Patent   6,633,823

    C. U.S. Publication   2003/0014498

    D. U.S. Patent   6,625,567

    E. U.S. Patent   6,590,507

    F. U.S. Publication   2002/0165733

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Kuen S Lu whose telephone number is 703-305-4894.

The examiner can normally be reached on 8 AM to 5 PM, Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Breene can be reached on 703-305-9790. The fax phone number for

the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is 703-305-3900.

Kuen S. Lu

Patent Examiner

April 13, 2004